

## COMMITTEE REPORT

**Committee:** West/Centre Area  
**Date:** 22 May 2007

**Ward:** Micklegate  
**Parish:** Micklegate Planning Panel

**Reference:** 07/00690/FUL  
**Application at:** McMillans 1 Rougier Street York YO1 6HZ  
**For:** Erection of covered shelter to create an external smoking area on existing rear flat roof  
**By:** McMillans (York) Ltd  
**Application Type:** Full Application  
**Target Date:** 18 May 2007

### 1.0 PROPOSAL

1.1 The application relates to the erection of a partially covered shelter/enclosure on an existing flat roof at first floor level at the rear of the "BPM" (formerly McMillans) bar/night club in Rougier Street. The shelter would be used as an external smoking area in anticipation of new legislation coming into force in July preventing smoking within public places. Access to the shelter, which would be attached to the rear wall of the building, would be via a new internal staircase and double door giving access to the flat roof. The site is within the Central Historic Core conservation area and the application has been appropriately advertised.

1.2 The application has been brought to Committee at the request of Councillor B. Watson

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006

Conservation Area Central Historic Core 0038

City Boundary York City Boundary 0001

DC Area Teams Central Area 0002

Floodzone 2 Flood Zone 2 CONF

Floodzone 3 Flood Zone 3

2.2 Policies:

CYHE2

Development in historic locations

### **3.0 CONSULTATIONS**

#### **3.1 INTERNAL**

##### **DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT**

###### **Conservation**

This property is situated in Central Historic Core Conservation Area. The property is not a listed building, but there are a number of listed buildings within the context of the development site including;- nos 19-21 Tanner Row, a grade II listed building dating from 1899; no.17 Tanner Row, The Corner Pin Public House, a grade II listed building dating from the mid eighteenth century with an early nineteenth century wing; no. 7a Tanner Row, the former All Saints Rectory, a grade II\* listed building, timber framed, dating from c.1600, and no. 7 Tanner Row, a grade II listed building dating from the eighteenth century.

Within the context of this cluster of listed buildings in Tanner Row, and the Central Historic Core Conservation Area, the design and location of the smoking shelter requires careful consideration. The proposals include a covered shelter positioned at first floor level on an existing flat roof to the rear of the building. The shelter is set back from the Tanner Row façade by some 4.5 metres. The ridge height of the shelter is 3.1 metres.

Given the 4.5 metre set back from the Tanner Row façade, the shelter is hidden from general public view at pavement level in Tanner Row. The shelter will be visible from the rear yard. The design of the shelter consists of vertical timber faced walls with a pitched roof finished in a slate substitute.

Having visited the site and considered the position of the shelter, it would appear that the location is largely hidden from public view. It is unlikely that the visual amenity of this part of the conservation area will be greatly affected by the shelter in this position. The design and finishes are of a traditional character, in order to minimise the visual impact of the shelter when viewed from the upper floors of adjacent buildings and the rear yard.

**ENVIRONMENTAL PROTECTION** - The environmental protection unit have no objections to this application, provided that the access to the smoking area is provided with a double door lobby area as discussed during the site meeting with the applicant. A condition is recommended requiring the submission of a noise management scheme, specifying the measures to be incorporated for the control of noise emanating from the site. The scheme should, in particular, address breakout of noise from the night club and noise from patrons of the night club using the smoking shelter.

## 3.2 EXTERNAL

MICKLEGATE PLANNING PANEL - No objections

ADJACENT OCCUPIERS - One letter has been received making the following points:

- the shelter is at the same height of the bedrooms in an adjacent property and music, conversations etc will be clearly heard.
- there is no way that a "wooden hut" can be adequately soundproofed.
- since extended hours were introduced noise at the premises has increased and this will make the situation even worse.
- in reality there will be inebriated revellers on the roof of a building that plays loud music until 3am - this is a breach of my Human Rights to get a good nights sleep.
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## 4.0 APPRAISAL

### 4.1 Key Issues

- impact on character and appearance of the conservation area
- impact on occupiers of neighbouring properties

4.2 The application relates to the erection of a partially covered shelter/enclosure to create an external smoking area at first floor level on an existing flat roof at the rear of the premises. The property is not a listed building but is located within the Central Historic Core conservation area. When determining planning applications within conservation areas, the Council has a statutory duty to consider the desirability of preserving or enhancing the character and appearance of the area.

4.3 Policy E4 of the Approved North Yorkshire Structure Plan states that buildings and areas of special townscape, architectural or historic interest (e.g. listed buildings, conservation areas) will be afforded the strictest protection. Policy HE2 of the City of York Draft Development Control Local Plan states that within or adjoining conservation areas, development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion detail and materials. Proposals will be required to maintain or enhance existing urban spaces, views, landmarks, and other townscape elements, which contribute to the character or appearance of the area.

4.4 Policy GP1 relates to design and states that development proposals will be expected to respect or enhance the local environment, and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area, using appropriate building materials. In addition, proposals will be expected to ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.5 The smoking "shelter" would measure 6.5 m x 6 m approx and would be constructed in vertical timber boarding with a hipped roof extending part way into the

structure. The roof would be tiled in reconstituted slate, matching the colour and texture of the natural slate roofs of a number of the adjacent buildings. The structure would be attached to the rear of the premises with access via a new internal stairway and double doors formed in the rear wall. The central part of the roof would be open in order to ensure that it is not "substantially enclosed" in accordance with the new Smoking Regulations. Tables and chairs within the structure would accommodate approximately 12 customers with further "bus shelter" type seating being provided around the perimeter of the shelter (total capacity approx 30).

4.6 The proposed shelter would be screened from Rougier Street by the taller pitched roof of the main building, and would not be visible from street level in Tanner Row due to being set back approximately 4.5 metres from the perimeter of the flat roof. Glimpse views of the shelter would be available from the junction of Tanner Row and North Street and, at a distance of approximately 130 metres, from across the river in the vicinity of the City Screen cinema. Although the shelter would be partially visible from Tanner Street, a small cul-de-sac at the rear of the premises, this area is not often frequented and essentially functions as a private car park/service area for the adjacent commercial premises. Public views of the shelter would, therefore, be reasonably limited. As such, it is considered that the proposal would not have a detrimental impact on the overall character or appearance of the conservation area.

4.7 At its closest point, the shelter would be approximately 16.5 metres from the nearest residential property at 7a Tanner Row, and the potential for noise and nuisance from customers using the smoking shelter, particularly late at night, is a consideration in this case. However, as the sides of the shelter would be enclosed, with a total height (including the perimeter pitched roof) of 3.5 metres, it is considered that the majority of noise from conversations etc would be largely contained within the structure. Members will also be aware that there are a number of potential sources of late night noise within the immediate vicinity of the site, including Flares night club, the Corner Pin public house, and the Salt and Pepper hot food takeaway. It is considered unlikely, therefore, that the proposal would result in any demonstrable increase in ambient noise levels, particularly bearing in mind the high levels of activity that already occur in the area.

4.8 It is proposed that the design of the shelter will include an enclosed lobby with double doors in order to isolate it from the night club. In addition, the shelter would incorporate sound deadening material in its construction. These matters could be controlled through the imposition of the condition recommended by the Environmental Protection Unit (see "Consultations" section above), requiring the submission of a Noise Management Scheme prior to the commencement of the development. For these reasons, it is considered that an objection on the grounds that the proposal would adversely affect the amenity of local residents would be difficult to sustain. Should planning permission be granted, a condition could also be imposed preventing the playing of amplified music within the smoking shelter, in order to minimise the potential for noise nuisance.

## 5.0 CONCLUSION

5.1 It is not considered that the proposal would be unduly harmful to the character or appearance of the conservation area due to the limited public views that would be available. Nor is it considered that the residential amenity would be adversely affected due to the high levels of late night activity that already take place in this city centre location, together with the incorporation of sound reduction measures into the proposal, such as an enclosed lobby and the use of sound deadening material in the construction. These measures could be secured through the submission, approval and implementation of a Noise Management Scheme, as recommended by the Council's Environmental Protection Unit.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve

1 TIMEL2

2 VISQ8

- 3 Before the development commences a detailed noise management scheme shall be submitted to and agreed in writing by the Local Planning Authority, specifying the provisions to be made for the control of noise emanating from the site. The scheme should, in particular, address the breakout of noise from the adjacent night club and noise from patrons of the night club using the smoking shelter. The approved development shall be carried out in complete accordance with the approved scheme.

Reason: In the interests of the amenity of adjacent residents.

- 4 No amplified music shall be played at any time either inside or outside the smoking shelter hereby approved.

Reason: In the interests of the amenity of adjacent residents.

- 5 All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday	08.00 to 18.00
Saturday	09.00 to 13.00
Not at all on Sundays and Bank Holidays.	

Reason: To protect the amenity of surrounding occupiers.

## 7.0 INFORMATIVES: Notes to Applicant

## 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- impact on character and appearance of the conservation area
- impact on occupiers of neighbouring properties

As such the proposal complies with Policy E4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies HE2 and GP1 of the City of York Local Plan Deposit Draft.

2. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be noted. Failure to comply with the guidance could result in formal action being taken under the Control of Pollution Act 1974:

(i) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(ii) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(iii) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(iv) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(v) There shall be no bonfires on the site.

### **Contact details:**

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